

# James C. Brown & Associates, P.C.

---

Law Offices

Post Office Box 31  
Marylhurst, Oregon 97036  
Telephone: (503) 557-2245  
FAX: (503) 557-0377  
E-mail: jcbrownpc@msn.com

March 10, 2006

Chip Humphrey  
Superfund Project Manager  
USEPA  
Region 10, Oregon Operation Office  
811 SW 6<sup>th</sup> Avenue  
Portland, OR 97204

Eric Blischke  
Oregon Department of Environmental Quality  
811 SW 6<sup>th</sup> Avenue  
Portland, OR 97204

Re: Portland Harbor Superfund Site  
Premier Edible Oils Site  
White Paper – Contaminant Sources at the PEO Site  
And  
Gradient's March 1, 2006 Comments on the Lower Willamette Group's Draft Conceptual Site Model for the PEO Site

Dear Mssrs. Humphrey and Blischke:

On behalf of our client Schnitzer Investment Corp. (SIC), we are writing to you regarding the principal sources of residual contamination at the Premier Edible Oils (PEO) Site, located at 10400 N Burgard Way, Portland, which is part of the Portland Harbor Superfund Site. As you are aware, in September 2004, the Lower Willamette Group (LWG) submitted to the U.S. Environmental Protection Agency (EPA) and the Oregon Department of Environmental Quality (DEQ) its draft Conceptual Site Model (CSM) for the Portland Harbor Superfund Site, which included the PEO Site as Appendix A-15. In their January 2005 joint letter, the agencies returned their comments on the draft CSM to the LWG and expressed concern with the "subjective and sometimes biased" language of the CSM Site Summaries. Furthermore, with respect to the PEO Site, the agencies questioned the accuracy and/or lack of documentation of some of the statements regarding the PEO Site and the lack of consideration of the Time Oil Bell Terminal as a contaminant source for the PEO Site. To the best of our knowledge, the concerns have yet to be addressed adequately.

As you may be aware, good faith differences of opinion exist between SIC and Time Oil Company (the adjoining landowner) as to the sources of the residual petroleum product

contamination at and in the vicinity of the PEO Site. To facilitate the timely resolution of these differences, SIC has authorized our office to prepare the enclosed *White Paper – Contaminant Sources at the Premier Edible Oils Site (ESCI #2013) located within the Portland Harbor Superfund Site* (hereinafter referred to as the "White Paper"), dated March 6, 2006, and has authorized Gradient to prepare the enclosed Memorandum entitled *Comments on the Lower Willamette Group's Draft Conceptual Site Model for the Premier Edible Oils Site*, dated March 1, 2006 (hereinafter referred to as Gradient's "3/1/06 Memorandum"). These documents shed significant new light and knowledge on the historic activities of Time Oil at or near the PEO Site that allow for a factual resolution of these differences.

The purpose of the White Paper is, in part, to consider the concerns raised by the agencies with the LWG's draft CSM statements as to the sources for the residual petroleum product contamination at and in the vicinity of the PEO Site to determine whether there is a factual basis for those statements. A review of the available site data and other relevant factual information indicates that there is no such basis. Furthermore, the White Paper examines whether other available information that has apparently been withheld, overlooked, and/or mischaracterized by Time Oil and/or the LWG and provides factually more accurate and plausible explanations of the sources of the residual petroleum product contamination at and in the vicinity of the PEO Site. These evaluations considered information relevant to the PEO property, the Time Oil facilities located adjacent to and/or upgradient of the PEO property (particularly the Bell Terminal facility), and the Time Oil facility that was historically located on the southern portion of the PEO property itself.

As discussed in the White Paper, the available data and other relevant information indicate that the residual petroleum hydrocarbon contamination at and in the vicinity of the PEO Site is primarily due to:

- the historic operation and maintenance practices at the Time Oil facilities (including the management and on-site disposal of tank sludges);
- the known historic releases of hazardous substances on the current and former Time Oil terminal properties; and
- the apparent lengthy and conscious disregard of certain required environmental compliance measures displayed by Time Oil management, from at least 1971 to 1983.

Gradient's 3/1/06 Memorandum also addresses issues associated with characterizing the sources of petroleum hydrocarbon contamination at and in the vicinity of the PEO site, particularly as such issues are reflected in the Draft CSM for the PEO site that was developed by the LWG, which apparently relied extensively on documents prepared by Time Oil.


As reflected in Gradient's Memorandum, the primary concerns raised by the LWG's Draft CSM document for the PEO site include the following:

- *Misleading and erroneous characterization of the conditions and potential contaminant sources at and in the vicinity of the PEO site.* In particular, the LWG's CSM document ignores substantial petroleum contaminant sources (e.g., Time Oil's upgradient Bell Terminal petroleum handling and storage facility), while focusing on potential sources that are unlikely to have contributed significantly, if at all, to the petroleum contamination observed in groundwater and soil at depth at the PEO site (e.g., the former Bell Terminal pipeline that crossed the PEO property).
- *Deficient and erroneous characterization of conditions and potential contaminant sources for the Time Oil Bell Terminal facility.* In particular, the conclusions presented in the LWG's CSM document rely heavily on draft Time Oil documentation regarding the Bell Terminal facility that suffers from numerous limitations including: misleading data presentations that promote erroneous conclusions, data inconsistencies indicating incomplete site characterization, and misleading and unsupported allegations regarding potential contamination sources.
- *Inadequate characterization of conditions at the PEO facility, due to reliance on outdated or incomplete information.* In particular, by contrast with the interpretation of the available data for the PEO site presented in the LWG's CSM document, a more complete and accurate review of the available data strongly points to Time Oil-related sources as playing the significant contributing role in the petroleum hydrocarbon contamination observed in groundwater and soil at depth at the PEO site (i.e., activities on the Bell Terminal property and the historic Time Oil bulk fuel facility previously located on the southern portion of the PEO property).

Even though there is a considerable amount of information to digest in the enclosed documents, we believe that this information is critical to the agencies forming an accurate understanding of the environmental conditions at the PEO Site.

To facilitate your use of the White Paper, a disc containing an electronic copy of the White Paper is enclosed and an electronic copy of the Gradient 3/1/2006 Memorandum will be provided shortly. If you have any questions, please call.

Sincerely,



James C. Brown

c: (Without Enclosures):

Mike Romero, DEQ  
Jim Anderson, DEQ  
Tom Roick, DEQ

Chip Humphrey and Eric Blischke

March 10, 2006

Page 4

(With enclosures):

Jim McKenna, Port of Portland (Co-Chair of the LWG)

Robert Wyatt, Northwest Natural Gas (Co-Chair of the LWG)

Keith Pine, Integral

William J. Hengemihle, LECG